IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MR.JUSTICE N.SESHASAYEE

T.C.R.Nos.968 to 970 of 2006

The State of Tamil Nadu
Represented by the
Deputy Commissioner (CT)
Tirunelveli Division
Tirunelveli- 627 022 ...Appellant in all appeals

vs

Tvl.The Orient Litho Press
Sivakasi ...Respondent in T.C.A.No.968/2006

Tvl.Modern Offset Printers
Sivakasi ...Respondent in T.C.A.No.969/2006

Tvl.Bhavani Fine Arts
Sivakasi ...Respondent in T.C.A.No.970/2006

Prayer in T.C.A.No.968/2006:- Appeal filed under Section 38 of the Tamil Nadu General Sales Tax Act to revise the order of the Tamil

Nadu Sales Tax Appellate Tribunal (AB) Madurai dated 03.03.2000 passed in M.T.S.A.No.505/99.

Prayer in T.C.A.No.969/2006:- Appeal filed under Section 38 of the Tamil Nadu General Sales Tax Act to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (AB) Madurai dated 14.03.2000 passed in M.T.S.A.No.515/99.

Prayer in T.C.A.No.970/2006:- Appeal filed under Section 38 of the Tamil Nadu General Sales Tax Act to revise the order of the Tamil Nadu Sales Tax Appellate Tribunal (AB) Madurai dated 14.03.2000 passed in M.T.S.A.No.36/99.

For Petitioner	:	Mr.V.Haribabu Additional Govt. Pleader (T)
For Respondent	:	Mr.P.Radhakrishnan

JUDGMENT

Heard Mr.V.Haribabu, the learned Additional Government Pleader appearing for the appellant and Mr.P.Radhakrishnan, learned counsel appearing for the respondent/dealer.

2.These appeals have been admitted on the following substantial question of law:

"Whether on the facts and in the circumstances of the case, the Tribunal is right in dismissing the appeal filed by the revenue before the Appellate Assistant Commissioner, who, after setting aside the order, remanded the matter to the assessing officer to consider the issue under Section 38 of the Tamil Nadu General Sales Tax Act?"

3. Though the above question has been framed in all these cases, since there was an order of remand, the legal issue is whether the assessment made on supply of printing material under Section 38 of the Tamil Nadu General Sales Tax Act could be sustained?

4. This issue was considered in the case of State of ***Tamil Nadu Vs. Premier Litho Works and another*** reported in ***(2009) 26 CST 205 (Mad)***, which was confirmed by the Hon'ble Supreme Court as the Special Leave Petition was dismissed. Apart from that, there are two other cases, namely the case of Vibgyor Process (Tax Case Revision No.687 of 2006) and Prakash Fine Arts and Printers and others (W.A.Nos.342 of 2011). These decisions were followed by a Division Bench, to which one of us (T.S.SIVAGNANAM.J.,) was a party, in Tax Case (R)(MD) No.35 of 2011 dated 03.05.2017. The said order reads as follows:

"This Tax Case Revision has been filed by the revenue challenging the order passed by the Tamil Nadu

Sales Tax Appellate Trinbunal (Additional Bench), Madurai.

2.The legal issue involved in the matter is whether the assessment made on the supply of printing material under Section 38 of the Tamil Nadu General Sales Tax Act, 1959, could be sustained.

3.We need not labour much on the said issue in the light of the earlier decisions of this Court which considered the very same point and answered the issue against the revenue. The decisions are as follows:

(i) The State of Tamil Nadu, rep. by the Deputy Commissioner (CT), Tirunelveli Division, Tirunelveli Vs. Tvl. Vibgyor Process (Tax Case Revision No.697 of 2006), dated 09.11.2009;

(ii) State of Tamil Nadu Vs. Premier Litho Works and another reported in (2009) 26 VST 205 (Mad); and

(iii) The State of Tamil Nadu, Rep. by Deputy Commissioner (CT), Tirunelveli Division, Tirunelveli Vs.Tvl.Prakash Fine Arts and Printers and others (W.A.Nos.342 of 2011 and 945 of 2010) dated 03.11.2016.

4.We may point out that identical issue which was decided aginst the revenue in the case of M/s. Premier Litho works and others was challenged before the Honourable Supreme Court in Civil Appeal No.10162 of 2010, which was dismissed by the Honourable Supreme Court by order, dated 03.08.2016.

5.Thus for all the above reasons and following the decisions cited above, this Tax case revision stands dismissed. No costs."

5. Thus, by following the above decision, the legal issue involved in these cases, is answered in favour of the dealer and against the Revenue.

Accordingly, the Tax Case Revisions are dismissed. No costs.

[T.S.S.J.,] [N.S.S.,J]

27.06.2018

gpa

To

The Tamil Nadu Sales Tax Appellate Tribunal (AB)
Madurai

T.S.SIVAGNANAM.J.,

&

N.SESHASAYEE.J.,

gpa

T.C.Revision.No.968 to 970 of 2006

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